

§ 220.02

(n) *Secretary* means the Secretary of Labor of the United States.

(o) *Temporary employment* means employment of limited duration which does not confer seniority or recall rights.

(p) *Terminated*, means, unless expressly provided to the contrary, termination of employment, other than for cause.

(q) *Terminated for cause* means the separation of an individual from employment initiated by an air carrier for violation of such carrier's rules, policies, procedures, or practices pertaining to employee standards of conduct, job performance, or dependability.

(r) *Vacancy* means an employment opportunity other than seasonal or temporary employment, which an air carrier seeks to fill from outside its existing or furloughed work force.

§ 220.02 Purpose.

Section 43(d) of the Act provides a first-right-of-hire for designated employees of covered air carriers. The regulations in this part are issued to effectuate section 43(d) (1) and (2) of the Act (hereinafter referred to as the Rehire Program).

§ 220.03 Scope.

(a) The Rehire Program is applicable only to designated employees, as more fully set forth herein, and only those employees who are expressly granted a hiring preference under the Act and these regulations have any rights under the Rehire Program. The Secretary of Labor will also publish a comprehensive list of jobs available with air carriers.

§ 220.04 Responsibilities of the Secretary of Labor.

The Secretary of Labor is responsible for administering the Rehire Program, and the Assistant Secretary for Employment Standards has been delegated responsibility for the following:

(a) The development and promulgation of policies, regulations and procedures covering the first-right-of-hire provisions of section 43(d)(1) of the Act;

(b) The development and promulgation of policies, regulations, and procedures covering the comprehensive job

29 CFR Ch. II (7-1-05 Edition)

list required under section 43(d)(2) of the Act; and

(c) The establishment and implementation of reporting requirements for air carriers to obtain pertinent information necessary for fulfilling the Secretary's responsibilities under section 43(d)(2) of the Act.

[50 FR 53101, Dec. 27, 1985, as amended at 62 FR 6092, Feb. 10, 1997]

Subpart B—Designated Employees' Eligibility and Rights

§ 220.10 Eligibility requirements.

(a) To qualify as a designated employee eligible for rights under this part 220, an applicant must be a protected employee who is involuntarily placed on furlough or is terminated by a covered air carrier during the eligibility period.

(b) A protected employee shall not be deemed to be furloughed or terminated if such employee:

(1) Retired voluntarily;

(2) Was required to retire by virtue of reaching the mandatory retirement age, if any, established by a covered air carrier or as prescribed by any government agency with regulatory authority over a covered air carrier;

(3) Retired due to a disability;

(4) Is on strike or is withholding services in support of other employees who have struck the covered air carrier;

(5) Is terminated for cause as defined in § 220.01;

(6) Resigned or voluntarily quit for any reason.

(c) A designated employee who is recalled by his former carrier is no longer eligible under this section to exercise the first-right-of-hire. Such a person may become a designated employee in the future due to a subsequent termination or furlough which occurs on or prior to the expiration of the eligibility period.

§ 220.11 Designated employees' rights.

(a) A designated employee shall have a first-right-of-hire in such employee's occupational specialty, regardless of age, with any covered air carrier hiring additional employees; *Provided, however,* That each designated employee must satisfy all qualifications or other

requirements established by the hiring carrier (subject to the limitations contained in §220.21) and must make a timely application in accordance with normal carrier procedures for any particular job vacancy.

(b) A designated employee hired by any covered air carrier pursuant to the provisions of the Act shall not be required, as a condition of employment, or in any other manner, to relinquish, waive, or forfeit any seniority or recall rights which such person may possess with any other air carrier; *Provided, however,* That the provisions of this part shall not be deemed to create or prolong any such seniority or recall rights.

Subpart C—Carriers' Responsibilities

§ 220.20 Duty to hire.

(a) Subject to §220.24, a covered air carrier shall have the duty to hire a designated employee, regardless of age, who otherwise meets the qualification requirements established by such carrier before it hires any other applicant when such carrier is seeking to fill a vacancy in the designated employee's occupational specialty from outside its work force. As used herein "work force" shall include all present employees and any furloughed or terminated employees who, at the time of furlough or termination, possessed recall or seniority rights.

(b) Subject to the provisions of §220.24, a covered air carrier shall not fill a vacancy, which would otherwise be available to a designated employee, by promoting or reassigning a seasonal or temporary employee, *unless* such seasonal or temporary employee is a designated employee.

(c) When considering applications from more than one designated employee for a particular vacancy, a covered air carrier shall be entitled to offer employment to any such designated employee in its absolute discretion.

§ 220.21 Criteria for employment.

(a) A covered air carrier shall be entitled to apply any prerequisites or qualifications determined by it for any vacancy, except that, solely with re-

spect to the duty to hire created by the Act, a covered air carrier shall not be entitled to limit employment opportunities for designated employees on the basis of:

(1) Initial hiring age (provided that such prohibition shall not be applicable to retirement ages applicable to all of any class or craft of such air carrier's employees); or

(2) The existence of any seniority, recall rights or previous experience with any other air carrier; *Provided, however,* That covered air carriers shall be entitled to require prospective employees to disclose the existence of any such seniority or recall rights in making application for employment and to take the existence or nonexistence of such rights into account in selecting from among those qualified designated employees who have applied for a particular job vacancy.

(b) In filling job vacancies during the effective period, covered air carriers shall be entitled to require applicants to furnish evidence that they are designated employees.

EDITORIAL NOTE: A court-ordered justification by the Secretary of Labor relating to 29 CFR 220.21(a)(1) appears at 51 FR 32306, Sept. 11, 1986.

§ 220.22 Listing a vacancy.

(a) During the effective period all air carriers shall be required to list each vacancy with the Center at the earliest practicable time, and to include with such listing a statement as to whether the carrier is subject to an equal employment opportunity requirement, as defined in these regulations, in filling the vacancy. In addition, any air carrier shall be entitled to list anticipated vacancies with the Center at any time.

§ 220.23 Content of vacancy listing.

Air carriers shall provide the Center with a description for each job listing, which shall include, but need not be limited to, the following:

- (a) Job title;
- (b) Type of position (full or part-time);
- (c) Salary;
- (d) Basic qualifications and/or training requirements;
- (e) Brief description of duties;
- (f) Location of vacancy (if known);